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**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**JOHN D. PERKEY and THERESA M.  
PERKEY,**

**Plaintiffs**

**vs.**

**RELIABLE CARRIERS, INC.,  
DANIEL JOSEPH BEMBEN and KENT,  
Defendants**

**CIVIL ACTION NO. 1:CV-00-1639**

**JURY TRIAL DEMANDED**

**Magistrate Judge Smyser**

**STATEMENT OF MATERIAL FACTS**  
**IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

1. On September 15, 1998, at approximately 6:10 a.m., Plaintiff, John D. Perkey was operating his tractor-trailer on I-76 (Pennsylvania Turnpike) near milepost 37.7 traveling eastbound. See Plaintiffs' Complaint as Exhibit "A", para. 9.
2. John D. Perkey was employed by ABF Freight Co. at the time of the accident. See John D. Perkey's Workers Compensation Pleadings as Exhibit "C".
3. Defendant Bemben was also traveling east on I-76 ahead of the Plaintiff when he was informed on his CB Radio by another truck that his left rear axle was on fire. See Plaintiffs' Complaint as Exhibit "A", para. 10.
4. Before being able to stop, the left front trailer wheels broke off the axle of the tractor-trailer. The wheels continued to roll eastbound along I-76. See Plaintiffs' Complaint as Exhibit "A", para. 11.



5. Plaintiff struck the wheels causing him to veer off the highway and allegedly crashed. See Plaintiffs' Complaint as Exhibit "A", para. 15 & 16.

6. Plaintiff was in the scope and course of his employment at the time of the accident. See John D. Perkey's Workers Compensation Pleadings as Exhibit "C".

7. Defendant Reliable Carriers, Inc owned the trailer. See Deposition transcript of Daniel Joseph Bemben as Exhibit "F", p. 12.

8. Reliable is a Michigan Company. See Plaintiffs' Complaint as Exhibit "A", para. 3, and Defendants' Answer as Exhibit "B", para 3.

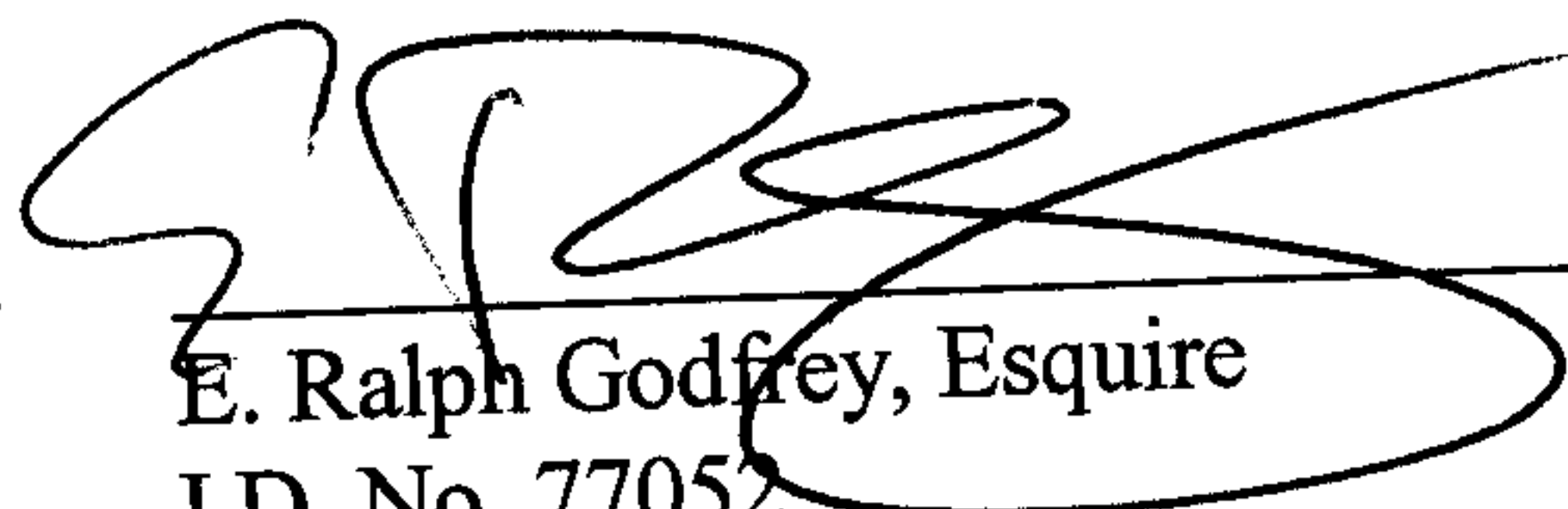
9. Because the accident occurred in the course and scope of his employment, workers compensation benefits were provided to Plaintiff. See John D. Perkey's Workers Compensation Pleadings as Exhibit "C".

10. Reliable Carriers, Inc. and Daniel Joseph Bemben were insured at the time of the accident by Reliance Insurance Company ("Reliance"). See Reliance Insurance Policy as Exhibit "E".

11. While Plaintiffs' suit against Reliable and Bemben was pending, Reliance became insolvent, and The Michigan Property and Casualty Guaranty Association ("MPCGA"), the sister association to the Pennsylvania Property and Casualty Guaranty Association ("PIGA"), assumed responsibility. See Order of Liquidation as Exhibit "D".

GODFREY & COURTNEY, P.C.

By:



E. Ralph Godfrey, Esquire

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Attorneys for Defendants

Date: April 15, 2003

**CERTIFICATE OF SERVICE**

AND NOW, this 15 day of April, 2003, I, E. Ralph Godfrey, Esquire, of Godfrey & Courtney, P.C., attorneys for Defendant Reliable Carriers, Inc. and Daniel Joseph Bemben hereby certify that I served the foregoing Statement of Material Facts this day by depositing the same in the United States mail, postage prepaid, in Harrisburg, Pennsylvania, addressed to:

Marcus McKnight, Esquire  
Mark D. Schwartz, Esquire  
Irwin, McKnight & Hughes  
60 West Pomfret Street  
Carlisle, PA 17013

  
E. Ralph Godfrey